IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CIVIL WRIT PETITION NO.1835/03

Suresh Chand Jain & Party

Versus

State & Ors.

DATE OF ORDER :: 04/05/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. V.P. Mathur, for petitioner
Mr. Arun Sharma, Dy.G.A.

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Instant petition has been filed by petitioner assailing the order Ann.6 dated 25th July, 2002 whereby the earnest and 1/4 bid amount which was deposited by petitioner was forfeited by respondents on account of non-fulfilment of terms of auction bid accepted by the authority.

The case which has been set up by petitioner is that auction notice was published by the respondents on 2nd April, 2002. Petitioner also participated in pursuance thereof as one of the bidders and his bid for a sum of Rs.7,00,000/- was finalized and 1/4 bid amount i.e. Rs.1,75,000/- was deposited by petitioner within 30 days of its confirmation and the balance amount which is Rs.5,25,000/- was to be deposited by petitioner on or before 11th June, 2002. On the last date of depositing the final bid amount, the petitioner made representation pointing out that he is not feeling well and the balance amount he

has not been able to collect from his resources, further time may be extended to him, but the same was declined by the authority and the amount which the petitioner deposited as per conditions of tender notice were forfeited by the respondents in terms of their communication Ann.R/2 dated 24th July, 2002.

Counsel for petitioner has put stress to convince this court that under the auction notice in pursuance of which he had deposited 1/4 of bid amount dated 2nd April, 2002, there was no such condition incorporated that it will be auctioned in different lots and under this bona fide belief that the whole of old scrapped machineries which were identified at site have been put to auction. Petitioner under this bona fide belief came out with the bid of Rs.7,00,000/- and since the respondents have not proceeded further in terms of conditions of tender document, balance payment has been withheld. But, it appears from the record that this submission of petitioner does not hold good in the light of his own representation Ann.R/1 dated 11/06/02 he was aware of that all scrapped used machineries have been put to auction in different lots and with this open eyes he has come forward in terms of NIT Ann.3 and since he was unable to make the payment of the balance amount, further time was sought which the authority declined and forfeited the amount deposited by him which was in

consonance with the terms of NIT Ann.3 dated 2nd April, 2002.

After going through the material on record, this court does not find any infirmity in the decision taken by the respondents in forfeiting the amount in terms of communication Ann.R/2.

Counsel for petitioner submits that he is a poor person and forfeiture of the amount which he has deposited certainly will cause great prejudice to him. He seeks liberty to file representation before the competent authority.

Petitioner is always free to make representation to the concerned authority. If such representation is made, the same be sympathetically considered.

With the above observations, the writ petition stands disposed of.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.